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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,625	04/02/2004	Naoyuki Kawachi	16CT02223	1062
7590 Patrick W. Rasche Armstrong Teasdale LLP Suite 2600 One Metropolitan Square St. Louis, MO 63102			EXAMINER BOR, HELENE CATHERINE	
			ART UNIT 3768	PAPER NUMBER
			MAIL DATE 07/08/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/816,625

**Applicant(s)**

KAWACHI ET AL.

**Examiner**

HELENE BOR

**Art Unit**

3768

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1-2 & 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Koritzinsky et al. (US Patent No. 6,272,469 B1).

**Claim 1, 6-7:** Koritzinsky teaches an image generator program [protocols: Col 14, Line 59-65] providing apparatus for sending an image generator program to a receiver apparatus (Figure 1, Element 22 & 86). Koritzinsky teaches said image generator program configured to generate a plurality of images of a subject (Figure 11, Element 242). Koritzinsky teaches each image of the plurality of based on parameters having a different setting value and captured data obtained from the subject (Figure 11, Element 242 & 240). Koritzinsky teaches a communication device configured to communicate with the receiver apparatus (Figure 1, Element 32 & 34). Koritzinsky teaches a controller device (Figure 1, Element 22 & 88) configured to send to said receiver apparatus through said communication device the plurality of said images generated by executing the image generator program with different setting values of the parameters (Col. 4, Line 46-62, Col. 6, Line38-49, Col. 15, Line 10-15 & Figure 11, Element 240 & 242). Koritzinsky teaches a controller device configured to send the image generator program having the setting values of the parameters configured to comply with a

selection result to the receiver apparatus through said communication device (Abstract, Col. 14, Line 52-55, Col. 23, Line 16-30 & Figure 16, Element 434). Koritzinsky teaches the image generator program sent in accordance with the selection result received through said communication device on images desired by the receiver apparatus (Abstract & Figure 16, Element 418). Koritzinsky teaches a first and second controller (Figure 1, Elements 30 & 22).

**Claim 2, 8:** Koritzinsky teaches wherein said controller device is configured to generate the plurality of images having image display characteristics selectable in compliance with each of the different setting values of said the parameters based on a processing result by said the image generator program configured to have different setting values of the parameters (Col. 6, Line 28-49, Figure 1, Element 22 & 88 and Figure 11, Element 240 & 242). Koritzinsky teaches wherein said controller device is configured to send the generated plurality of images to said the receiver apparatus through said communication device and based on the selection result by said the receiver apparatus on the desired images send the image generator program having setting values of said the parameters configured to comply with said the selection result through said communication device to the receiver apparatus (Abstract, Col. 14, Line 52-55, Col. 23, Line 16-30 & Figure 16, Element 434).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 3-5 & 9-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koritzinsky et al. (US Patent No. 6,272,469 B1) as applied to claims 1-2 & 6-8 above, and further in view of Christopherson et al. (US Patent Application No. 2003/0110182 A1).

**Claim 3-4, 10:** Koritzinsky teaches the image generator program (Abstract) but fails to teach the image being based on the captured image data received from the receiver apparatus. Christopherson teaches customers transferring image to a webserver (Page 1, Para 0008) and those based on the selected image the controller prepares the images through additional rendering and scaling (Page 5, Para 0039 – Para 0045). It would have been obvious to one of ordinary skill in the art to modify the apparatus of Koritzinsky with the image selection rendering as taught by Christopherson in order to provide the personnel with sufficient information regarding the protocol (Abstract & Col. 2, Line 8-14; Koritzinsky)

**Claim 5, 9, 11-18:** Koritzinsky teaches the image generator program is executed on a medical imaging apparatus including an X-ray, CT, or MRI (Figure 1, Elements 42 &

26).

**Claim 19 & 20:** Koritzinsky teaches wherein said receiver apparatus further comprises a storage unit configured to store the image generator program, the plurality of images and capable of storing the capture data.

***Response to Arguments***

6. Applicant's arguments with respect to claim 1-20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELENE BOR whose telephone number is (571)272-2947. The examiner can normally be reached on M-T 8:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long V. Le can be reached on (571)272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. B./  
Examiner, Art Unit 3768

/Eric F Winakur/  
Primary Examiner, Art Unit 3768